Dealing with Threatening Behaviour

Things can get very heated in a strata context. Disputes can involve peoples' homes and living arrangements and can be very personal. They can involve issues and frustrations which have built up over long periods of time. Those frustrations can lead to emotional reactions and given the spectrum of personality types which can exist within a strata scheme, can lead to aggressive behaviour or even violence. The purpose of this article is to assist strata managing agents, strata committee members and others who may be exposed to such behaviour to develop strategies for dealing with these situations.

Some issues for consideration:

- Where possible, prevention is better than cure:
    - When dealing with communications which are likely to be controversial, especially when dealing with volatile individuals, try to keep the communication factual and unemotional, presented as coming from an organisation, rather than an individual. Think twice before making a statement which may be provocative. Consider sleeping on it or bouncing it off someone else before making it. Consider what you are trying to achieve and whether this is the best way to achieve it.
    - Consider adopting a communications protocol, for strata managing agents in the agency agreement or for strata committees in a by-law. Subject to relevant legislation, this would regulate how communications will operate and could include provisions such as appointment by an owners corporation of one person to act as a point of contact and conduct of specified communications through an on-line portal or email.
- When someone is bothering you with unwarranted calls, emails or social media posts, consider blocking the phone number or email address or banning the user from the social media page. ISPs and social media platform operators specify terms of use and generally prohibit harassment. When behaviour amounts to harassment, it may be appropriate to contact the person's ISP or social media platform operator, with a view to having the perpetrator's account deregistered.

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- Where a meeting will consider controversial issues, consider whether security is warranted. This can also prevent issues getting out of hand.

- When things do get out of hand, e.g. when someone at a meeting is violent or threatening violence, discretion is usually the better part of valour. There is a point at which it will be necessary to involve the police. Even if that point has not been reached, the strata managing agent and strata committee need to consider obligations under work health and safety laws and the law of negligence and may need to postpone or adjourn a meeting to permit security arrangements to be made.
- If you have been threatened or have concerns about your safety or the safety of someone else, consider your legal options and take appropriate action, erring on the side of caution.

Legal options:

- Internet, email & telephone activity:
    - The Commonwealth Criminal Code 1995 makes it a serious criminal offence to use a carriage service (e.g. phone, email or social media) to do any of the following to another person:
        - Threaten to kill or harm the person or someone else.
        - Menace, harass or offend.
        - Make a hoax threat,
        - Threaten to do something else which is a serious offence.
    - In these cases, one should report the matter to local police or the Australian Cyber Security Centre.

- Violence, stalking & intimidation:
    - The Crimes Act 1900 NSW and the Crime (Domestic and Personal Violence) Act 2007 NSW together make it a criminal offence to engage in a range of violent, intimidating or harassing activity, including:
        - Assaulting a person.
        - Making threats of violence.
        - Using violence or intimidation, stalking a person or interfering with their property, with a view to deterring them from exercising a legal right or because they exercised a legal right.

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- Stalking or intimidating a person with intent or known likely to cause physical or mental harm.
- Publishing indecent articles, e.g. indecent pictures on social media.

- The Crime (Domestic and Personal Violence) Act 2007 also provides for the making of Apprehended Personal Violence Orders, breach of which is a criminal offence.
- In these cases, one should report the matter to local police, where appropriate also seeking an AVO.

Key takeaways

- Preventing threatening behaviour is crucial; keeping communication factual and unemotional can help.
- Establishing a communications protocol can regulate interactions and reduce conflicts.
- In cases of harassment, blocking the perpetrator and reporting to relevant authorities may be necessary.
- When meetings involve controversial issues, considering security measures can prevent escalation.
- Legal options are available for dealing with threats and harassment under NSW law.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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